



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/589,893

06/11/2007

Lars Elmekilde Hansen

02405.0263

2818

22852

7590

11/25/2009

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP

901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER

GERRITY, STEPHEN FRANCIS

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

11/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,893	Applicant(s) HANSEN ET AL.	
	Examiner Stephen F. Gerrity	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-14 and 16-40 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,6-9 and 17-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/31/09; 9/10/09</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 1, 2, 6-9, and 17-40 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and/or species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12 March 2009.

2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

3. Receipt is acknowledged of Information Disclosure Statements, filed 31 August 2009 and 10 September 2009, which have been placed of record in the file. An initialed, signed and dated copy of each of the PTO-1449 forms is attached to this Office action.

Drawings

4. The replacement drawings were received on 31 August 2009. These drawings are acceptable.

Specification

5. The abstract of the disclosure filed 31 August 2009 is objected to because of the use of legal phraseology, i.e. means. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 10-14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10, line 9, the recitation “including evacuating means for evacuating ...” is incomplete and considered to render the subject matter vague and indefinite because the claim fails to particularly set forth what is being evacuated. It is quite clear from the specification that “air” is being evacuated from the mineral wool, but the claim fails to positively recite such. Therefore the subject matter of the claim is deemed incomplete, as well as vague and indefinite. It is suggested that claim 10, line 9 be amended to recite --including evacuating means for evacuating air from said mineral wool--.

These and any other informalities should be corrected so that the claims may particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required by 35 U.S.C. § 112, second paragraph.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3721

9. Claims 10-14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Olson et al. (US 4,377,061).

The Olson et al. reference discloses an apparatus for wrapping, compressing and evacuating mineral wool (col. 1, lines 11-31) which meets all of applicant's claimed subject matter.

For purposes of claims 11 and 12, applicant's attention is directed to figures 19-23 -- this embodiment of Olsen et al. discloses that the mechanical compressing means 12 is located after the wrapping means.

For purposes of claims 13 and 14, applicant's attention is directed to figures 16 and 17 -- this embodiment of Olsen et al. discloses that the mechanical compressing means 10 is located before the wrapping means.

For purposes of claim 16, the mechanical compressing means 12 includes a flat displaceable press.

Response to Arguments

10. Claims 13 and 14 have been rejoined with the elected invention -- note that in applicant's response/election filed 12 March 2009, applicant indicated that claims 13 and 14 did not read on elected Species II. However, on further review and as requested by applicant, the claims 13 and 14 have been rejoined and examined.

11. Applicant's arguments filed 31 August 2009 have been fully considered but they are not persuasive.

Art Unit: 3721

- Applicant argues that claim 10 has been amended to correct the 35 USC 112, 2nd paragraph rejection -- this is not agreed with by the examiner for the reasons set forth above in the rejection.
- Applicant argues that the Olsen et al. reference does not anticipate the subject matter of claims 10-14 and 16 because applicant believes that the Olsen et al. reference does not have an evacuation station as set forth in claim 10. In particular, applicant argues that the Olsen et al. reference does not include an "evacuation station including opposed surfaces for maintaining said dimensional reduction during transfer to the evacuating means of said mineral wool product compressed by the compressing means and enclosed by the foil, said opposed surfaces maintaining said dimensional reduction during said evacuation by said evacuating means." This is not agreed with by the examiner because there is no structural distinction found between the claimed invention and the structure disclosed in Olsen et al. A review of the Olsen et al. figures and the accompanying written description reveals that the dimensional reduction is maintained during transfer from the mechanical compressing means 10 or 12 to the evacuation station 14. The figures reveal no relative change in the dimension of the product which has been compressed.

Conclusion

12. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Gerrity whose telephone number is 571-272-4460. The examiner can normally be reached on Monday - Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen F. Gerrity/
Primary Examiner, Art Unit 3721